BEARD OIL CO.

IBLA 82-681 Decided September 4, 1985

Appeal from decisions of the California State Office, Bureau of Land Management, rejecting noncompetitive oil and gas lease offer CA 10997, and holding for rejection offers CA 10998, CA 10999, and CA 11001.

Reversed in part, vacated in part, and remanded.

1. Oil and Gas Leases: Applications: Description -- Oil and Gas Leases: Description of Land

   Under 43 CFR 3101.1-4(a) (1981), the failure to designate a meridian is not a fatal defect in the land description in a noncompetitive oil and gas lease offer for acquired lands, where the description, on its face, uniquely delimits the land requested and BLM does not have to go outside the offer form itself to determine exactly what lands the offer describes.

2. Mineral Leasing Act for Acquired Lands: Consent of Agency -- Oil and Gas Leases: Acquired Lands Leases -- Oil and Gas Leases: Consent of Agency

   The Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. §§ 351-359 (1982), requires that the consent of the administrative agency having jurisdiction over acquired land described in a lease application be obtained prior to the issuance of a lease for such land. Absent consent, the Department of the Interior is without authority to issue a lease.

APPEARANCES: John R. Brown, Assistant Vice President, Beard Oil Company, for appellant.

OPINION BY CHIEF ADMINISTRATIVE JUDGE HORTON

Beard Oil Company has appealed decisions by the California State Office, Bureau of Land Management (BLM), rejecting its noncompetitive acquired lands oil and gas lease offer CA 10997, and holding for rejection offers CA 10998, 10999, and 11001.

By decision of March 3, 1982, BLM held all four offers for rejection, stating that all were filed for lands "purportedly under the jurisdiction of the Department of Defense" and that the offers did not give the name of the Government agency having jurisdiction over the lands from which consent to lease such lands would have to be obtained. Further, the decision stated that the name of the meridian had been omitted from the land description in CA 10997 and that this offer was subject to rejection for this reason also. The decision allowed the offeror 30 days from receipt thereof to correct the defects, stating that failure to comply would result in all four offers being rejected without further notice, and also providing that filing priority would not be established until such corrective filings were made.

In a subsequent decision dated March 18, 1982, BLM definitively rejected lease offer CA 10997. The decision stated that this offer had been filed for lands within the Camp Roberts Military Reservation, under the jurisdiction of the U.S. Army, that the Army had not consented to leasing the lands, and that 43 CFR 3111.1-2 prohibited issuance of an oil and gas lease without the consent of the agency having surface management jurisdiction. 1/

On May 5, 1982, appellant filed a statement of reasons addressed to all four offers. 2/ However, adjudication of the appeal was held in abeyance pending reevaluation by the Army of its position concerning oil and gas leasing within Camp Roberts.

On July 8, 1985, BLM filed with the Board a report received from the Army concerning oil and gas leasing within Camp Roberts. According to the report, the Army now consented to leasing in that facility subject to certain stipulations. In its covering memorandum to the Board, BLM stated in part:

> It should be noted that the lands included in [Camp Roberts] are located only within the following townships within the Mount Diablo Meridian, California:
>
> T. 25 S., R. 10 E.,
> Tps. 23-26 S., R. 11 E;
> Tps. 24-25 S., R. 12 E;
>
> If the lands under application are within the Mount Diablo Meridian, they may lie with the boundaries of Fort Hunter-Liggett, and to date no leasing consent report has been received from the Army for that facility. Enclosed are plats for the townships under application in the Mount Diablo Meridian.

1/ The oil and gas regulations have undergone a number of revisions since appellant's offers were filed. The consent requirement now appears at 43 CFR 3101.7-1 (48 FR 33666 (July 22, 1983)).

2/ On May 14, 1982, appellant filed a statement of reasons addressed to CA 10997 and five other offers (CA 11002, CA 11003, CA 11004, CA 11006, and CA 11008). Beard's appeal from BLM's adjudication of these offers was disposed of by Board order dated June 21, 1982 (IBLA 82-863).

> In addition, the subject offers were held for rejection based upon failure to provide the meridian in the land description and California has three meridians. The decision allowed the applicant to provide the proper meridian which, to our knowledge, has not been done until noted in a letter to your office dated April 30, 1982. [3/]
>
> The land description in CA 10997 is as follows:
>
> 2. Land requested: State California County Monterey T. 24 S. R. 9 E. Meridian
>
> Section 26: Lot 5
> Section 27: Lots 1 thru 4, inclusive; NE 1/4 SE 1/4

The other three offers describe lands in T. 18 S., R. 19 E., and T. 22 S., R. 7 E. All three of these latter offers include the name of the Mount Diablo Meridian.

It thus appears that none of appellant's offers, including CA 10997, describes lands within Camp Roberts. Accordingly, BLM's March 18, 1982, decision must be reversed to the extent it was premised on the fact that the land was situated within Camp Roberts.

[1] In its statement of reasons, appellant asserts with respect to CA 10997 that T. 24 S., R. 9. E., Monterey County "does not appear anywhere within the State of California under any other meridian except the MD meridian." Appellant contends that the description was adequate and comports with the applicable regulation. The regulation in effect at the time appellant's offers were filed was 43 CFR 3101.1-4(a) (1981). It required that oil and gas lease offers for surveyed lands must describe the lands by legal subdivision, section, township, and range. 4/

Though the offer for CA 10997 did not provide the name of the meridian, it did include the name of the county in which the requested lands are situated. In Irvin Wall, 68 IBLA 308 (1982), we held that an over-the-counter noncompetitive oil and gas lease offer need not be rejected for failure to indicate the meridian where only one meridian governs the state in which the land is located. We pointed out that Departmental regulation 43 CFR 3101.1-4(a) requires that oil and gas lease offers for surveyed lands must describe the lands by legal subdivision, section, township, and range. We noted that the form also provides a space for "filling" in the applicable

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3/ This is a reference to appellant's statement of reasons addressed to offers CA 10997-CA 10999 and CA 11001, filed with the Board on May 5, 1982. 4/ The regulation now in effect, 43 CFR 3111.2-2, requires inclusion of the meridian:

"§ 3111.2-2 Acquired lands.

(a) If the lands have been surveyed under the rectangular system of public land surveys, the lands shall be described by legal subdivision, section, township, range and meridian."

48 FR 33675 (July 22, 1983).

meridian, and that designation of the meridian clearly is necessary for states such as California which are governed by more than one meridian. See also Irvin Wall, 70 IBLA 183, 90 I.D. 3 (1983).

The purpose of the Departmental regulations for descriptions in offers is to require the offeror to give a description which is at least sufficient on its face to delimit the lands in the offer. Where BLM has to go outside the offer form itself to determine exactly what lands the offer requests, the offer is insufficient and subject to rejection. See James M. Chudnow, 70 IBLA 71 (1983).

The issue for determination is whether the description in CA 10997 was sufficient on its face to delimit the lands in the offer. We hold it was. Despite the omission of the meridian, the township and range, together with the county of location, identified the lands sought without ambiguity and within the requirements of 43 CFR 3101.1-4(a) (1981). Appellant is correct that this township and range description is not possible in California except in conjunction with the Mount Diablo Meridian. Accordingly, we distinguish our holding in Irvin Wall, supra, by explaining that under 43 CFR 3101.1-4(a) (1981) the failure to designate a meridian is not a fatal defect in the land description, even if the land is located in a state governed by more than one meridian, where the description, on its face, uniquely delimits the land requested. 5/ Thus, failure to designate the meridian was not a proper reason for holding CA 10997 for rejection.

[2] Insofar as the other ground for rejection is concerned, appellant argues that disclosure, on the offer form, of the agency having surface jurisdiction is a non-mandatory element. The regulation in effect when appellant's offers were filed, 43 CFR 3111.1-2(a)(5), stated that applications and offers "should name, if practicable, the Government agency from which consent to the issuance of a permit or lease must be obtained." Section 3 of the Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. § 352 (1982), states in part:

> No mineral deposit covered by this section shall be leased except with the consent of the head of the executive department, independent establishment, or instrumentality having jurisdiction over the lands containing such deposit * * * And subject to such conditions as that official may prescribe to insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered.

This statute precludes mineral leasing on acquired lands without the consent of the administrative agency having jurisdiction over the acquired land. Union Oil Company of California, 79 IBLA 86 (1984).

Initially, we note that under the regulation cited in BLM's March 3, 1982, decision (43 CFR 3111.1-2(a)(5) (1981), there was no mandatory requirement for an offeror to designate the name of the agency having surface

5/ As indicated earlier, offers filed under the presently governing regulation must designate the meridian as part of the land description 43 CFR 3111.2-2.

jurisdiction over the lands requested. Such designation is clearly an added convenience under the regulatory language; its omission is not grounds to deprive the offeror of a lease. Accordingly, BLM erred in holding the offers for rejection pending correction of this defect.

We must point out, however, that as BLM's July 1985 memorandum suggests, the lands in the four offers appear to lie within Fort Hunter-Liggett, under the jurisdiction of the Army, and would therefore be subject to leasing only with the consent of the Army. Also, if the lands in CA 10997 are within Fort Hunter-Liggett, BLM's decision of March 18, 1982, rejecting that offer because the Army's consent to leasing had not been received for Camp Roberts, is in error. On the present state of the record, the Board cannot make an informed disposition of the issue concerning consent of the agency having surface management jurisdiction, assuming that all or part of the lands are within Fort Hunter-Liggett.

Based on the above, and pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, BLM's decision of March 18, 1982, is vacated. The decision of March 3, 1982, is reversed insofar as it required designation of the meridian on CA 10997 and disclosure of the agency having surface management jurisdiction over lands embraced by all four offers as preconditions to lease issuance. The case files are remanded to the state office for readjudication in light of applicable facts, and for issuance to appellant of a new decision with right of appeal to the Board.

Wm. Philip Horton
Chief Administrative Judge

We concur:

Will A. Irwin
Administrative Judge

James L. Burski
Administrative Judge